

Remarks/Arguments

The Office Action dated October 20, 2004, has been noted and its contents carefully studied. It is noted that the time for response has been extended by separate petition for two months, to March 20, 2005 (a Sunday), and this proposed Amendment is responsive thereto.

In light of the foregoing amendments to the claims, reconsideration, entry and allowance of the claims is courteously requested.

More specifically, clarifying amendments have been made to the claims, and in particular to all the independent claims wherein the method for collecting network usage data is clearly recited as being about user's accessing a network and resources thereon. Further clarification has been provided in that an identifier is obtained at a network service provider (such as a Time Warner Cable, etc.). The identifier represents one or more users of the network thereon. An anonymized identifier is then created at the network service provider using the obtained identifier.

As a further clarification by way of further distinguishing over the references, a transaction record is created by associating the anonymized identifier with the collected data, and is stored in a database separate from the network service provider. This is clearly reflected in independent claims 1, 14, 24, 26 and 27.

It is again respectfully urged that the invention as now recited in the claims as clarified, is not anticipated by or obvious under 35 USC §102 and/or §103 from the cited references as will become further clearly evidenced from the following discussion presented herein for the Examiner's kind consideration.

"A Platform for Determining How People Value the Quality of Their Internet Access" by Rupp et al.

The reference entitled "A Platform for Determining How People Value the Quality of Their Internet Access" by Rupp et al. (hereinafter "Rupp") has been extensively previously discussed.

Rupp describes what is known as the Internet Demand Experiment (INDEX) which is a real world micro-market trial seeking to provide information which service providers can use to understand the structure of user demand. INDEX has two main objectives which include 1)

measurement of user demand for Internet access as a function of quality of service, pricing structure and application, and 2) demonstration of an end-to-end system that provides access to a diverse group of users at attractive price-quality combinations.

The experiment provided Internet access over ISDN lines to a group of about 150 users from the Berkley campus community. The users select network services from a menu of QoS-price offerings and pay for the usage. The data collected is expected to reveal the correlation between user applications and service demand, how demand varies with user experience, and to what extent users form discreet market segments. INDEX is a locally developed system for user interaction in metering individual subject usage. For the subjects, this is the central application enabling them to select different qualities of service and control their usage of network resources.

A Control Center application on the users' computer provides usage feedback by displaying a summary of charges for either, the current session, the current day, or the current month. The Control Center communicates users' choices at selected quality levels as control data going through a Billing Gateway through a supervisor. User traffic is monitored and recorded by the Billing Gateway at a fairly detailed level for both billing purposes and subsequent analysis. All of this is done through the Control Center and the Billing Gateway interacting. Control of everything occurs through a supervisor process. This arrangement particularly as reviewed with reference to Figure 1 and the discussion in section 2.2 bears no resemblance to Applicants' claimed invention.

As such, it is respectfully urged that Rupp standing alone or in combination with the other references fails to provide a method and system as recited in Applicants' claims. More specifically, in contrast to the monitoring operation with a Control Center at the website in INDEX, Applicants' invention relates to a method of collecting network usage data of users accessing a network and resources thereon. Contrary to Rupp an identifier is provided at a network service provider with an anonymized identified identifier then being created at the network service provider by using the obtained identifier. The anonymized identifier is associated with the collected data if the collected data is sent to or from one or more users to create a transaction record. That transaction record is stored in a separate database which is

separate from the network service provider and is part of a comprehensive established system which has nothing to do with a monitoring experiment such as that taught by Rupp.

Accordingly, it is only in a hindsight interpretation of Applicant's invention, particularly as now clarified in the claims, that the Examiner has been able to arrive at the stated rejection. Thus, for the foregoing reasons, it is believed that the amendments are of a clarifying nature sufficient to distinguish over the cited reference standing alone or in combination with the other references, and clearly define the invention in a manner which is not anticipated by or obvious from Rupp standing alone or in combination with the other references.

U.S. Patent No. 5,961,593 to Gabber et al.

U.S. Patent No. 5,961,593 to Gabber et al. (hereafter "Gabber") adds nothing to the teachings of Rupp because Rupp already teaches the use of an anonymized identifier but not in the manner specifically provided in Applicant's claims. More specifically, the anonymized identifier created in Gabber is one which is created to allow users to browse server sites anonymously through a proxy system. It is created at a proxy, not an Internet Service Provider such as a Time Warner cable, and it is not for monitoring and collecting transaction information. Thus, the application of the anonymized identifier in Gabber has nothing to do with the teachings of Rupp for monitoring network usage and user demand for service. However, it is acknowledged that should a user return with the anonymized identifier, while not recognized, the anonymized identifier is returned allowing the server site to recognize a returning user and possibly provide personalized service.

This is quite different from the teachings of Rupp and even more removed from Applicants' claimed invention. In fact, what Rupp provides is a proxy system where automatic stripping of information associated with browsing commands that would allow server sites to determine the true identity over user are removed. The functions are performed consistently by the proxy and in fact, the system of Gabber uses the concept of an anonymized identifier in a manner contrary to Applicants' claimed invention and the teachings of Rupp.

As such, it is again respectfully urged that what the Examiner has done is engage in an impermissible hindsight interpretation of Gabber contrary to its teaching to apply those teachings to Rupp in a manner to attempt to arrive at Applicants' claimed invention. The stubborn fact

remains, it is courteously argued, that not only has there been an incorrect interpretation of the reference, but in addition, in order to reject all of the claims, the Examiner has had to turn to a multitude of unrelated references in various permutations, not all of which are directly applicable to the field of Applicants' invention. It is well established law that the more references relied upon, the less weight is afforded the validity of an obviousness rejection.

U.S. Patent No. 6,446,200 to Ball et al.

U.S. Patent No. 6,446,200 to Ball et al. (hereafter "Ball") teaches a system for collecting and aggregating data from network entities for data consuming applications. The data collected layer serves to receive network flow information from the network entities and to produce records based on the information. More particularly, the invention described in Ball addresses network growth by simplifying management, managing the network as a system and providing service-level management. The system contemplates receiving from a subscriber a request for a level of network service and determining from the request for a selected service configuration, characteristics for configuring network devices to provide the requested level of service to the subscriber. The service provider is then monitored to ensure that the appropriate level of service has been provided.

This has nothing to do with Applicants' claimed invention as now clarified in the claims which generally relates to an anonymized way of collecting user behavior and transaction data, for example, so that intelligent information can be provided as a result of collection at a service provider to hosts of websites such as vendor websites which are accessed by users, to enable them to better tailor their services and products to the types of users who frequent their sites without identifying those users. In fact, the teachings of Ball are directly contrary to Rupp, and even the case of Gabber, because here it is required that the user be identified so that the service provider, in this case Nortel Networks, a telephone service provider which is expanding into services in the Internet protocol area, can appropriately monitor that a request for service has been implemented and is appropriately being delivered.

“Document entitled “Census Geography”

The document entitled “Census Geography” (hereinafter “Census Geography”) merely teaches that geography is a basic element of the Census Bureau system for organizing statistical data to the public. It discusses creating a geographic hierarchy but has nothing to do with its application in the field of monitoring traffic on a network on an anonymous basis to characterize user behavior based on factors which admittedly include geography. Again, the application of Census Geography is merely a hindsight interpretation reconstructing the reference in a manner attempting to arrive at Applicants’ claimed invention.

U.S. Patent No. 6,134,441 to Åström et al.

U.S. Patent No. 6,134,441 to Åström et al. (hereafter “Åström”) merely teaches a mobile telephone communications switching network wherein mobile stations may be used in a static applications such as a telemetry application. Åström does in fact disclose that MSISDN is a unique identifier but is it only done in the context of mobile telecommunications. Åström adds nothing to the teachings of Applicant’s claimed invention other than just identifying MSISDN as a unique identifier for a subscriber in a telecommunications switching network.

Paper entitled “National Center for Education Statistics”

The paper entitled “National Center for Education Statistics” (hereinafter “Education Statistics”) is a data collection system of the National Center for education Statistics which has as its legislative mission the collection and publication of data on the condition of education in the Nation. Repeated measurements of the same phenomena are conducted at different points in time and permits estimates to be tracked across time about the condition of education in the Nation. Telephone area code or telephone exchange numbers are in fact used in the method for collecting data but it is in a completely different and unrelated application to Applicants claimed invention. Thus, it is clearly that one of ordinary skill in the art would not look to the teaching of a paper such as the one cited to reject Applicants’ claimed invention.

In fact, it is again urged that this paper has nothing to do with Applicants’ claimed invention and respectfully urged that the Examiner is again attempting to establish a rejection after knowledge of Applicants’ claimed invention by viewing selected “keywords” of a reference

without critically examining its true teachings. Thus, it is respectfully requested that the paper be withdrawn as a reference.

Paper entitled "Results of the 1998 NAFSAA Salary Survey"

The paper entitled "Results of the 1998 NAFSAA Salary Survey" (hereinafter "NAFSAA") is of the type like the previously discussed Education Statistics paper and the Census Geography document and adds nothing to the teachings of Rupp and Gabber, other than for the general discussion of statistical analysis of salary surveys. For the reasons set forth with respect to Education Statistics and Census Geography, it is respectfully urged that NAFSAA is not relevant to the claimed invention and inappropriately applied to reject the claims as obvious since one of ordinary skill in the art would not combine the teachings of Rupp and Gabber to the total combination of references cited to reject the claims.

"Stallings Cartography and Network Security"

The reference entitled "Stallings Cartography and Network Security" (hereinafter "Stallings") adds nothing to the claimed invention for the reasons set forth with respect to education statistics, NAFSAA and census geography. Stallings merely teaches general cryptographic techniques but fails to teach or suggest Applicants' claimed invention in the context of monitoring Internet traffic on an anonymous basis so as to be able to provide transaction data collected at a separate site to enable website owners such as retailers, etc. to more closely target their services and offerings to the type of traffic attracted by those websites.

For the foregoing reasons, it is respectfully urged that the claims as amended clearly distinguish over the cited references and should be entered as a matter of right. More specifically the clear features of the invention where the transaction record is obtained from other sources including the anonymized identifier which is created at the network service provider and then maintained separate from the network service provider is a feature which is clearly not taught or obvious from the cited references. It is again respectfully urged that an uncommon and inordinately large number of references have been combined to arrive at the rejections and it is respectfully requested that the Examiner reconsider such a large combination of references and

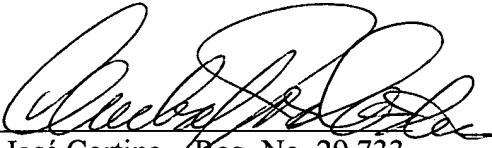
• Application No. 09/608,135
Amendment after Final Rejection dated March 21, 2005
Reply to Final Office Action dated October 20, 2004
Express Mail EV406652902US

the appropriateness thereof, given the clear rulings of the Court of Appeals for the Federal Circuit as applied to obviousness rejections.

Further, it is respectfully urged that because the claims now distinguish over the references that the amendments should entered and the application passed to issuance. Nonetheless, should the Examiner have any comments, questions, or suggestions of a nature necessary to place the case in condition for allowance, he is courteously requested to telephone the undersigned at the number listed below.

Dated: March 21, 2005

Respectfully submitted,



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Enclosures

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